



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2020-0110; FRL-10013-30-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Air Pollution Emission Notice Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In accordance with section 110 of the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of Colorado on May 8, 2019. The EPA is taking final action to approve amendments to the State's Stationary Source Permitting and Air Pollution Emission Notice Requirements. The EPA is taking this action pursuant to sections 110 of the CAA.

DATES: This final rule is effective on **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2020-0110. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available

through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6227, leone.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The EPA is taking final action to approve all SIP revisions submitted by the State of Colorado on May 8, 2019. The SIP revisions that we are acting on contain amendments to 5 CCR 1001-5, Regulation Number 3 (Stationary Source Permitting and Air Pollution Emission Notice Requirements). In particular, these amendments would revise Part A, VI.C. (Annual Emissions Fees) and VI.D. (Fee Schedule). The State adopted these revisions on October 18, 2018, and they became state effective on November 30, 2018. We are taking final action to approve of all revisions submitted on May 8, 2019.

The EPA published a proposed rulemaking on June 5, 2020 (85 FR 34559), which contains a detailed summary of the SIP revisions in question and an explanation of the bases for our proposed approval. We invited comment on all aspects of our proposal, and provided a 30-day comment period, which ended on July 6, 2020.

II. Response to Comments

We received no comments during the public comment period.

III. Final Action

As outlined in our proposed rulemaking, EPA is taking final action to approve the addition of new and revised rules to Regulation Number 3, Part A, Section VI.C: VI.C.2; Section VI.D: VI.D.1, VI.D.2, and VI.D.3 as submitted on May 8, 2019.

IV. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the State of Colorado's revisions to its SIP as described in section III. of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state

¹ 62 FR 27968 (May 22, 1997).

law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be

filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 10, 2020.

Gregory Sopkin,
Regional Administrator,
Region 8.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority for citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart G--Colorado

2. In §52.320, the table in paragraph (c) is amended by revising the entry “VI. Fees” under the heading “5 CCR 1001-05, Regulation Number 3, Part A, Concerning General Provisions Applicable to Reporting and Permitting” to read as follows:

§52.320 Identification of plan.

* * * * *

(c) * * *

Title	State effective date	EPA Effective date	Final rule citation/date	Comments
*	*	*	*	*
5 CCR 1001-05, Regulation Number 3, Part A, Concerning General Provisions Applicable to Reporting and Permitting				
*	*	*	*	*
VI. Fees	11/30/2018	[insert date 30 days after date of publication in the Federal Register].	[insert Federal Register citation], [insert date of publication in the Federal Register].	
*	*	*	*	*

* * * * *